

FISCAL NOTE

Bill #: HB0565 **Title:** Contracted government services accountability
Primary Sponsor: Cohenour, J **Status:** As Introduced

Sponsor signature	Date	David Ewer, Budget Director	Date
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Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
General Fund	unknown	unknown
Revenue:		
General Fund	\$0	\$0
Net Impact on General Fund Balance:	unknown	unknown

<input type="checkbox"/> Significant Local Gov. Impact	<input checked="" type="checkbox"/> Technical Concerns
<input type="checkbox"/> Included in the Executive Budget	<input type="checkbox"/> Significant Long-Term Impacts
<input type="checkbox"/> Dedicated Revenue Form Attached	<input type="checkbox"/> Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. It is assumed that no database will be developed or maintained to store this information and that no analysis, reporting, or coordinating of this data is required by state agencies.
2. The Department of Public Health and Human Services (DPHHS) and the Department of Labor and Industry both indicated they were unable to determine the fiscal impact of this bill.

Department of Natural Resources and Conservation (DNRC)

3. The DNRC has contracts with the U.S. Forest Service, Bureau of Land Management, US Geological Survey (USGS), Bureau of Reclamation (BOR), several irrigation districts, as well as with many private companies. These entities would be required to keep and submit records to the department on the number of employees, time spent on taking measurements, etc. Because these contracts currently do not provide this level of detail, this would be an increase in administrative costs of approximately 3 percent per contract.
4. It is assumed that this would result in less “on-the-ground” work that would be done with the same amount of state and federal funds, to cover the higher administrative costs.

Department of Environmental Quality

5. There may be substantial financial impact from this bill, but the impacts are not easily quantifiable.

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6. Additional record keeping and disclosure requirements may limit the number of contractors willing to do business with the Department of Environmental Quality. This could lead to decreases in the number of competing contractors and ultimately increase the amount the department spends on contracts.
7. Currently, contract managers check invoice detail against contracts to verify compliance, but do not audit the contractor's books for compliance. It is assumed that the department will not be required to audit the books of each contractor to verify compliance with this bill.
8. If the department were required to perform on-site audits of the contractors, additional FTE and travel expenses (including out-of-state travel) would be required, but associated program costs are not easily quantifiable.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Additional costs will be incurred by the Area Agencies on Aging without additional funding.

TECHNICAL NOTES:

Department of Administration

1. As written, the bill does not limit its application only to service contracts for which a competitive procurement process is required. The bill's plain language would appear to apply to the purchase of any service, including ordinary commercial airline travel, overnight lodging, or motor vehicle rental.
2. The term "number of employees performing the contract" is under-defined. The bill does not indicate whether the required information is to be tracked only for employees who directly perform the service work, or for the contractor's entire workforce, when any one of a number of individuals may end up performing any portion of the services. In addition, the bill does not specifically include or exclude administrative support or support staff whose work in performance of the contract is limited to billing or accounting functions, human resource management, and other indirect work that is necessary in the vendor's fulfillment of the contract. For example, which employees are reported to the state when it contracts with a major banking institution to provide credit card services for approximately 3,500 State card holders or contract with a mobile-phone company to provide state mobile phone service?
3. The term "the hours worked to perform the contract" is under-defined. The bill does not indicate how to calculate the hours worked to perform the contract when the services provided are not furnished in discrete hours of labor directly and exclusively attributable to performance of the contract with a state agency.
4. Since all procurement documents are public documents, the public, including the competing vendors have a right to inspect this information. The department assumes that some private sector companies will be reluctant to provide the required information, or simply do business with the state, since their employment information would be available to their competitors.
5. The vast majority of contracts let by the state for professional design services are primarily negotiated as lump sum amounts per 18-8-205, MCA. These lump sum amounts are billed on a percentage of completion of the design and construction and not on the basis of hours worked. The amounts paid to employees by firms varies as well as whether or not employees are compensated as salaried or hourly employees. There is no set standard for employee compensation as the salaries are negotiated with employees by the employer usually in accordance with needs for particular expertise and prevalent market rates. Design professional salaries are typically very confidential as they are often the result of employment negotiations. The state has no dealings in such employment negotiations and the information gathered under this bill may be considered proprietary and highly confidential.

Department of Public Health and Human Services

6. Many private corporations and businesses consider the wages paid to staff to be confidential information. Some businesses consider the wages paid to staff to be a trade secret in order to stay competitive in the

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business's field of expertise and to retain qualified and educated staff. This bill would require those corporations and businesses to disclose that information.

7. The bill does not include a definition of "procurement of services". Contracts for leases of equipment, such as copiers and postage meters, may be included in the requirements. These contracts may contain a maintenance agreement for individuals to come to an office to repair or maintain the equipment.
8. The Child Support Enforcement Division (CSED) has a contract with Collection Bureau Services, which is free to the state. CSED sends bad debts to Collection Bureau Services and upon collection of the debt, CSED receives payment of the entire amount owed. The Collection Bureau Services charges a fee to the person from whom the debt was collected. It is unclear from the language of the bill whether this type of contract would be included in the requirements.
9. The CSED also contracts with Lab Corp for paternity testing in child support cases for babies born out of wedlock. Lab Corp contracts with medical professionals all across the United States who collect DNA samples. Lab Corp pays these professionals a per draw fee, the time to collect the sample is minimal consisting of using a swab to collect tissue from the mouth of the individual and mailing the sample to Lab Corp. It would be very difficult and voluminous to obtain the information required by this bill for professionals across the United States who collect DNA samples.
10. Lab Corp also has a customer service center used by everyone they contract with. It may be difficult for them to track Montana's use apart from other users and to track the information requested in the bill for each Montana call.
11. The Senior and Long Term Care Division (SLTC) contracts with local Area Agencies on Aging (AAA's) to provide services in the communities, such as Meals on Wheels and congregate elderly feeding programs. It is assumed that this bill will require an increase in workload for the AAA's doing business with the state. It is assumed that this increase in cost will be passed along either in a reduction in services or in an increase in the cost of the contract.